

# EXHIBIT U

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United States Department of Agriculture

**MEMORANDUM TO THE FIELD FOR THE FARM SERVICE AGENCY (FSA)  
CONCERNING PARTNERSHIPS FOR CLIMATE-SMART COMMODITIES**

(1) Purpose.

This document is meant to aid in the administration of Partnerships for Climate-Smart Commodities by summarizing and further defining responsibilities within USDA and external to USDA with respect to the effort. The primary guiding documents for Partnerships for Climate-Smart Commodities are the Notice of Funding Opportunity combined with the individual grant agreements executed at the national level with each grant recipient.

(2) References.

The authority for the Partnerships for Climate-Smart Commodities funding opportunity (USDA-NRCS-COMM-22-NOFO0001139) is the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq). This funding opportunity leverages the authorities under Section 5 of the Commodity Credit Corporation Charter Act at 15 U.S.C. 714c with particular emphasis on the following subsection: “(e) increase the domestic consumption of agricultural commodities (other than tobacco) by expanding or aiding in the expansion of domestic markets or by developing or aiding in the development of new and additional markets, marketing facilities, and uses for such commodities.” Partnerships for Climate-Smart Commodities Grants are administered under 2 CFR Part 200 et seq – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

(3) Definitions for Partnerships for Climate-Smart Commodities Funding Opportunity.

A **Climate-Smart Commodity** is an agricultural commodity that is produced using agricultural (farming, ranching, or forestry) practices that reduce greenhouse gas emissions or sequester carbon.

**Climate-Smart production practices** include agricultural and forestry practices or combinations of practices, and/or practice enhancements that provide Greenhouse Gas (GHG) benefits and/or carbon sequestration. Practices may include, **but are not limited**, to the following: cover crops, low-till or no-till, nutrient management, enhanced efficiency fertilizers, manure management, feed management to reduce enteric emissions, buffers, wetland, and grassland management, tree planting on working lands, agroforestry and afforestation on working lands, afforestation/reforestation and sustainable forest management, planting for high carbon sequestration rate, maintaining and improving forest soil quality, increase on-site carbon storage through forest stand management, alternate

wetting and drying on rice fields, climate-smart pasture practices, such as prescribed grazing or legume inter-seeding, and soil amendments, like biochar.

(4) Forms.

USDA forms referenced in this notice are:

- a. AD-1026 (Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification);
- b. CCC-902 (Farm Operating Plan for Payment Eligibility 2009 and Subsequent Program Years);
- c. AD-2047 (Customer Data Worksheet to facilitate the collection of customer data for Business Partner Record); and
- d. CPA-052 (NRCS Environmental Evaluation CPA-52 Worksheet).

(5) Reports.

See section on Reporting and Duplicate Payments.

(6) Background.

Up to approximately \$3.1 billion will be made available for the Partnerships for Climate-Smart Commodities projects through this funding opportunity, which will build markets and invest in America's climate-smart farmers, ranchers, and forest owners to strengthen U.S. rural and agricultural communities. Through the Partnerships for Climate-Smart Commodities, USDA will support the production and marketing of climate-smart commodities through a set of pilot projects that provide voluntary incentives through partners to producers and landowners, including early adopters, to:

- a. implement climate-smart production practices, activities, and systems on working lands,
- b. measure/quantify, monitor and verify the carbon and GHG benefits associated with those practices, and
- c. develop markets and promote the resulting climate-smart commodities.

All projects must be tied to the development of markets and promotion of climate-smart commodities. Markets for climate-smart commodities may include companies or processors sourcing climate-smart commodities to meet internal targets or other supply chain goals, biofuel and renewable energy markets, companies seeking to sell branded consumer products, or other opportunities that could provide a premium or additional revenue for participating producers and landowners. Sufficient incentives to encourage producer participation, as well as generation of verifiable greenhouse gas reductions and carbon sequestration are critical to project success.

(7) Policy.

This directive further describes the responsibilities related to Partnerships for Climate-Smart Commodities.

(8) Responsibilities.

See Topic-Specific Sections

(9) Topic-Specific Sections.

a. General Administration

i. Overview

This section provides information on the general administration information for Partnerships for Climate-Smart Commodities.

ii. Roles and Responsibilities

1. NHQ Climate-Smart Commodities Team

In general, Partnerships for Climate-Smart Commodities will be administered by a National Headquarters team with leadership from the Under Secretary for Farm Production and Conservation and the Chief of NRCS with strong support and collaboration from the FSA Administrator and leaders across the Department.

The Director of Climate-Smart Commodities, currently the Acting Senior Advisor for Climate-Smart Commodities, will lead the team with a staff that includes an Acting Deputy Director, Acting Division Directors and Acting National Program Officers (NPOs). The NPOs are responsible for negotiating agreements, administrative tasks associated with the agreements, and general oversight of a suite of projects under the opportunity. The NPOs will be the primary contact with the grant recipients.

2. State and County Offices (NRCS/FSA)

Each State Executive Director and State Conservationist will identify a separate State Climate-Smart Commodities POC. The NRCS and FSA State Climate-Smart Commodities POCs will be the primary contacts with the NPOs and also the primary contacts for any field office staff that need to be engaged for Partnerships for Climate-Smart Commodities related activities in their respective agencies. Field office staff should direct any questions on Partnerships for Climate-Smart Commodities to their respective Agency's State Climate-Smart Commodities POC, who will then engage the appropriate NPO as needed.

3. Grant Recipient

Each grant recipient will be responsible for implementation of the Partnerships for Climate-Smart Commodities project, including all technical assistance with project producers.

4. Contractors

Various contractors may be leveraged by USDA at the Headquarters or State level or by grant recipients under their grant agreements. The primary contract discussed in this

guidance is a headquarters contractor that will assist with cultural and environmental survey activities.

## 5. Producers

Producers are beneficiaries of Partnerships for Climate-Smart Commodities as the USDA Partnerships for Climate-Smart Commodities grants are applying climate-smart practices and building climate-smart markets to benefit producers.

### iii. Actions

#### 1. NHQ Climate-Smart Commodities Team

NHQ Climate-Smart Commodities Team will follow the provisions of this directive and associated guidance.

#### 2. State and County Offices (NRCS/FSA)

State and County Offices will follow the provisions of this directive and associated guidance.

Each State Executive Director and State Conservationist will identify a separate State Climate-Smart Commodities POC. The name of the State POC should be submitted by the State Executive Director or State Conservationist to [climate-smart-commodities@usda.gov](mailto:climate-smart-commodities@usda.gov) by Thursday, **April 27, 2023**.

### iv. Funding Codes

#### 1. NRCS

With regard to Partnerships for Climate-Smart Commodities, NRCS will use Conservation Technical Assistance funds for HELC/WC technical assistance and NHQ will provide fund codes for activities related to Environmental and Cultural Resources.

#### 2. FSA

FSA will use the Activity Reporting System codes: Program “Farm Records” and Activity “NRCS Support” for the activities related to creating Farm/Tract/Field for new customers and providing copies of maps and subsidiary prints to producers who request them for their participation in Partnerships for Climate-Smart Commodities.

FSA will use the Activity Reporting System codes: Program “Eligibility” and Activity “NRCS Support” for the activities related to completing eligibility forms including the CCC-902, AD-2047 and AD-1026.

#### 3. Other Information

Additional Partnerships for Climate-Smart Commodities funding may be made available in the future. States will be notified accordingly.

b. Producer Eligibility and Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Compliance

i. Overview

In order to be eligible for an incentive payment as a part of the Partnerships for Climate-Smart Commodities, a producer must:

1. Establish Farm Records with the Farm Service Agency (have farm, tract, and fields numbers in place);
2. Complete an AD-2047 (Customer Data Worksheet to facilitate the collection of customer data for Business Partner Record);
3. Certify HELC and WC compliance via Form AD-1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification; and
4. Certify that they are not a foreign person or entity.

Farm, tract, and field numbers are required for the producer, and ultimately the Partnerships for Climate-Smart Commodities grant recipient, to report climate-smart practice implementation to USDA, as well as to certify and maintain HELC/WC compliance. This will require that some producers that do not already have these records, like perennial crop growers, feedlots or forest land owners, establish these records with USDA.

Producers are not bound by the payment limitations and the adjusted gross income (AGI) limitations that are in place for other USDA programs.

In order to demonstrate HELC/WC compliance for Partnerships for Climate-Smart Commodities incentive payments, producers will need to request a copy of their subsidiary print from their [USDA Service Center](#). The producer will then provide this documentation to the Partnerships for Climate-Smart Commodities grant recipient as proof of compliance. A current year subsidiary print will be required for each crop year that the producer receives a payment, and HELC/WC eligibility information is provided under the AD-1026 and Conservation Compliance sections of subsidiary (determined by year, which can change at any time during the year or in a subsequent year). As is the case already, field office staff will not provide documentation to anyone besides the producer unless they have provided a written authorization, according to normal policy. Producers will need to demonstrate to the grant recipient that they have control of the land for the term of their beneficiary contract.

ii. Roles and Responsibilities

1. NHQ Climate-Smart Commodities Team

The National Program Officers (NPOs) will clarify the process for determining eligibility, HEL/WC compliance and the grant requirements with the Partnerships for Climate-Smart Commodities grant recipient. The NPOs will provide a training module for the grant recipient to ensure expectations are clear and grant recipients understand the producer documentation.

The NPOs will facilitate back-end checks on producers to determine if they have later been determined out of compliance.

The NPOs will troubleshoot any issues that the grant recipients are having with HELC/WC compliance eligibility, including eligibility determination backlogs.

## 2. State and County Offices (NRCS/FSA)

FSA county office staff will create farm records including farm, tract, and field numbers as requested by a producer. They will forward the AD-1026 with requests for technical determinations to NRCS, as needed. The county office staff will also provide a map and subsidiary prints to a producer as requested.

FSA county office staff will collect new producer information using business file and complete the CCC-902 and AD-2047, as requested by a producer.

There are no additional tasks expected of county office staff. However, county office staff may see an increase in related HELC/WC workload triggered by an increase in technical determinations.

NRCS State Conservationists and FSA State Executive Directors will monitor any backlogs of eligibility determinations or Farm Record establishment, and address issues accordingly. For HELC/WC compliance under Partnerships for Climate-Smart Commodities, the NRCS and FSA roles are the same as it would be for any other customer. The State Climate-Smart Commodities POCs may be notified by the NPO that a particular project has encountered a backlog in determinations, who will work with their state leadership to help address any resource needs.

## 3. Contractors

A Partnerships headquarters contractor may assist with the back-end checks on producers to determine if they have not maintained compliance.

## 4. Grant Recipients

Grant recipients are responsible for determining producer eligibility within the funding opportunity requirements. Partners will inform producers of eligibility requirements and direct them to local USDA offices for requested information as necessary, including but not limited to, farm and tract establishment, HELC/WC determinations, and environmental evaluations (described further in section D). Privacy of producers is a priority through this process.

At minimum, the grant recipients will collect and review subsidiary reports from participating producers. They will ensure that the producer is listed as “certified” for AD-1026 and “compliant” in all sections of the conservation compliance portion of subsidiary before an incentive payment is made. They will also check that the Subsidiary Print for "Foreign Person" indicates "Not Applicable". Farm, tract, field numbers and producer name will be provided to the National Program Officer as a part of routine grant reporting.



## 5. Producers

The producer will work with FSA to establish farm records and complete an AD-1026, if they have not already. Producers will request records from their [USDA Service Center](#) as needed to voluntarily participate in a Partnerships for Climate-Smart Commodities project.

The producer will complete the CCC-902 and AD-2047 at the FSA County Office, if they have not already. Producers will request records from their [USDA Service Center](#) as needed to participate in a Partnerships for Climate-Smart Commodities project.

### c. Reporting and Duplicate Payments

#### i. Overview

USDA's robust data and learning strategy for Partnerships for Climate-Smart Commodities will include requirements for grantees to submit the following information as part of their quarterly reporting:

1. Progress reports and updates on farm, tract, and field data including, but not limited to, producers enrolled, acres, crops, and livestock covered, climate-smart practices implemented and related incentives;
2. Updates on project summary data including geographic data, partner activities, and marketing activities as well as financial and budget information;
3. Measurement/Quantification, Monitoring, Reporting and Verification (MMRV) methods, modeled and measured GHG benefits, and environmental co-benefits including, as applicable water, air, and habitat related benefits.
4. Other periodic updates on supplemental data, including information related to the MMRV plan and direct field measurement results will also be required.

Additional reporting and data sharing requirements may apply at time of award. Certain reporting elements will be required to be georeferenced. Financial reporting will also be required consistent with 2 CFR 200. Spot checks may be required upon review of reporting documents or other USDA analyses. Data will be submitted through a secure portal where producer privacy will be protected according to applicable laws.

Data will be available internally to be compared with NRCS data.

#### ii. Roles and Responsibilities

##### 1. NHQ Partnerships Team

NPOs will monitor quarterly and ad hoc data reporting from grant recipients. NPOs will also use automated dashboards to check for potential overlap on each practice-field combination on a quarterly basis after the partners provide reporting. If a potential duplicate is identified, the NPO will notify the State Climate-Smart Commodities POCs for further review.

If the State Climate-Smart Commodities POC confirms a duplicate payment **and** the obligation dates indicate that the Climate-Smart Commodities contract was **after** the date of the NRCS or FSA direct producer contract, then the NPO will notify the grant recipient that the producer beneficiary contract funds must be recovered.

## 2. State and County Offices (NRCS/FSA)

The State Climate-Smart Commodities POCs will receive a list of suspected duplicate payments from the NPO, research and provide findings to the NPO.

If the State Climate-Smart Commodities POC confirms a duplicate payment and the obligation dates indicate that the Climate-Smart Commodities contract was **before** the date of an NRCS or FSA direct producer contract, then the State Climate-Smart Commodities POC will notify the appropriate county office staff that the contract funds must be recovered.

Provide potential duplicate payments to NPO if found through county office staff normal reviews.

**Note:** If funding was for an enhancement beyond what was done originally through FSA/NRCS, repayment is not needed.

## 3. Contractors

Headquarters contractors will be leveraged to develop dashboards and other data analysis resources.

## 4. Grant Recipients

Grant recipients will provide required reporting and attest that producers and land owners will not be involved in multiple USDA programs that fund the same practice on the same land. Federal funds under this funding opportunity may not be used to pay for implementation of the same practice on the same land, but funding may be used to enhance a practice or to further incentivize the climate-smart commodity generated, especially with respect to early adopters.

## 5. Producers

Producers must ensure and certify that they are not receiving a payment for the same practice on the same land at the same time.

### d. Environmental and Cultural Resources Review

#### i. Overview

A Finding of No Significant Impact (FONSI) was signed by USDA NRCS on August 26, 2022, for Partnerships for Climate-Smart Commodities. A copy of the Programmatic Environmental Assessment for Partnerships for Climate-Smart Commodities is available at [www.usda.gov/climate-smart-commodities](http://www.usda.gov/climate-smart-commodities). The overall impacts of the funding

opportunity, including those to cultural resources, were considered in the Programmatic EA. Additional project or site specific cultural and environmental analysis may be identified to tier to this Programmatic EA and comply with other relevant laws.

The grant recipient is responsible for all technical assistance, including planning practices consistent with NRCS practice standards, interim practice standards and/or alternative practice standards and providing information for any site specific environmental review.

## ii. Roles and Responsibilities

### 1. NHQ Partnerships Team

Following grant agreement execution, NPOs will send a copy of the Project Environmental and Cultural Resources Letter to the grant recipient and the NRCS State POC. On a project by project basis, this letter will be signed by the Acting Director for Climate-Smart Commodities on behalf of the NRCS Chief and delineate whether any additional site specific environmental or cultural resources review will be required by practice for the project. NPOs will coordinate with State POCs and also headquarters contractors and recipients to ensure sufficient information is provided for site specific review as needed.

### 2. State and County Offices (NRCS)

As requested, the NRCS State Climate-Smart Commodities POCs will ensure required CPA-52s are completed and signed in a timely manner. NRCS State Climate-Smart Commodities POCs will review Environmental Evaluation information developed by the Partner (and checked by the Contractor) to ensure that adverse impacts have been minimized, and also will work with appropriate State Office staff and the Contractor to complete any required consultations. NRCS State POCs will ensure the site-specific CPA-52s are completed and signed by the appropriate Responsible Federal Official (RFO) in the State Office.

### 3. Contractors

Headquarters contractors will review information on the CPA-52s submitted by the recipients and prepare consultation materials as needed. Contractors may reach out to the grant recipients, in coordination with the NPO, for additional information prior to signature or any associated consultations.

### 4. Grant Recipients

Grant recipients must complete the CPA-52 through Section O for each field where site-specific review is required. The recipient must then send the CPA-52 in a zipped, password protected file to [climatesmart@clarkgroupllc.com](mailto:climatesmart@clarkgroupllc.com) (or a designated website provided by the NPO) for completion and signature by USDA. Recipients must not execute a beneficiary contract for a field where a CPA-52 is required until they receive a CPA-52 for that field that is signed by a USDA representative.

## 5. Producers

Producers will provide information to the grant recipient as requested when signing up for a particular project.

## 6. Site Specific Environmental and Cultural Resources Review Step Chart

If a project requires site specific review, then the following step chart should be followed.

Step	Climate-Smart Commodities Environmental & Cultural Resources Compliance Review Process								
1	Recipient completes any required site-specific Environmental Evaluation (EE) CPA-52 completed through Section O for each applicable producer beneficiary contract <b>and</b> submits in a zipped, password protected file to <a href="mailto:climatesmart@clarkgroupllc.com">climatesmart@clarkgroupllc.com</a> (or a designated website provided by the NPO). Go to Step 2.								
2	Contractor reviews CPA-52 information. Go to Step 3.								
3	<table><tr><td>If Consultation is...</td><td>THEN...</td></tr><tr><td>Required</td><td>Go to step 4.</td></tr><tr><td>Not required</td><td>Go to step 7.</td></tr></table>			If Consultation is...	THEN...	Required	Go to step 4.	Not required	Go to step 7.
If Consultation is...	THEN...								
Required	Go to step 4.								
Not required	Go to step 7.								
4	Contractor drafts consultation package. Go to Step 5.								
5	Contractor provides the NRCS State Climate-Smart Commodities POC with the consultation materials (with cc: to NPO), and state staff performs necessary consultation. Go to Step 6.								
6	<table><tr><td>If consultation concurrence is...</td><td>THEN...</td></tr><tr><td>Received</td><td>Go to step 7.</td></tr><tr><td>Not received</td><td>Tract is ineligible for Project</td></tr></table>			If consultation concurrence is...	THEN...	Received	Go to step 7.	Not received	Tract is ineligible for Project
If consultation concurrence is...	THEN...								
Received	Go to step 7.								
Not received	Tract is ineligible for Project								
7	Contractor updates CPA-52 to reflect consultation outcome (if any). Go to Step 8.								
8	Contractor sends CPA-52 with attachments to the NRCS State Climate-Smart Commodities POC (with cc: to NPO). Go to Step 9.								
9	NRCS State Climate-Smart Commodities POC uses state-defined review process to review. Go to Step 10.								

10		If additional information is...	THEN...
		Needed	Go to step 11A.
		Not needed	Go to step 11B.
11A	NRCS State Climate-Smart Commodities POC requests additional information from contractor (and cc: NPO). Go to Step 4 or Step 12 as indicated.		
11B	NRCS State Climate-Smart Commodities POC will ensure that the CPA-52 is signed by an appropriate NRCS representative in their state. The NRCS State POC then completes the form at <a href="https://office.com">Partnership for Climate Smart CPA-52 Submission Portal (office.com)</a> , attaches the signed CPA-52 and submits the form. The signed CPA-52 will be the official record. Go to Step 13.		
12	Contractor develops other requested information. Go to Step 8.		
13	NPO maintains record of completed CPA-52's using SharePoint database. Go to Step 14.		
14	Partner receives signed, site-specific CPA-52 from automated system.		

**Note:** Consultation refers to a consultation for Section 7 of the Endangered Species Act, Section 106 of the National Historic Preservation Act or other special environmental concerns.



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